



Delaware Thoroughbred Racing Commission
Minutes of Meeting & Public Hearing
January 15, 2008

The Delaware Thoroughbred Racing Commission held a regular meeting and public hearing on January 15, 2008, at 10:00 AM, in the second floor conference room of the Horsemen's Office, Delaware Park, 777 Delaware Park Boulevard, Wilmington, Delaware 19804.

The following commission members were present:

Bernard J. Daney, Chairman
W. Duncan Patterson, Jr., Secretary/Commissioner
Henry James Decker, Commissioner
Debbie Killeen, Commissioner
Edward Stegemeier, Commissioner

The following individuals also were present:

John F. Wayne, DTRC Executive Director
Thomas Ellis, Deputy Attorney General, Commission Counsel
Barbara Gadbois, Esq. Deputy Attorney General, Stewards' Counsel
Dr. John T. Peters, DTRC, Supervising Commission Veterinarian
Dr. Kathleen Picciano, DTRC, Associate Commission Veterinarian
Dr. Jane Teichner, DTRC, Associate Commission Veterinarian
Francis J. Swift, DTRC, Inspector
Shelley Perkins, DTRC, Paralegal (recording minutes)
Frederick Burkhardt, DTRC, Associate Steward
Bill Fasy, Delaware Park, Chief Operating Officer
Andrew Gentile, Delaware Park, General Manager
Joseph Rudisill, Delaware Park, Sr. Vice President of Compliance
Greg Petkiewicz, Delaware Park, Sr. V.P., Race Track Operations
Bonnie Rhine, Delaware Park, Executive Assistant
Ismael Trejo, Delaware Park, Racing Secretary
Margie Stallings, Delaware Park, Assistant Racing Secretary
Hugh Gallagher, Delaware Harness Racing Commission, Administrator
Robert B. Brown, Delaware Harness Racing Commission, Commissioner
Charles Lockhart, Dover Downs
Joe Strug, Dalare Associates, Laboratory Director
Dr. Larry R. Soma, University of Pennsylvania
Scott Peck, DTHA, President
Bessie Gruwell, DTHA, Executive Director
Madeline Locke, DTHA, Delaware Certified
Michael Glah, H2B Visa Program (DTHA)
Robert Colton, Delaware Jockeys' Association, Director
Dr. Amy D. Warren, Veterinarian
Gale Patti, Trainer

Gary R. Katz, Esq., Trainer
George Margetson, Owner
Laura Dennis, Trainer
Mark Shuman, Trainer
Michael T. D'Angelo, Owner/Trainer
Nancy Solano, Veterinarian Assistant
Nick Sanna, Owner
Randy Rolfe, Owner
Steve Bertrando, Owner
Steve Klesaris, Owner/Trainer
Tracy Nunley, Owner/Trainer
Vincent Moscarelli, Trainer
Timothy Hooper, Trainer, Appellant
Alan Pincus, Witness for Appellant
Richard H. Cross, Jr., Esquire, Counsel for Timothy Hooper
Jack Ireland, News Journal, Reporter
Summer Harlow, News Journal, Reporter
Court Reporter, Wilcox & Fetzer, Recording Appeal Hearing Testimony

1. **WELCOME AND CALL TO ORDER**

Chairman Daney called the meeting to order at 10:06 AM and welcomed those in attendance.

2. **APPROVAL OF MINUTES**

Upon a motion duly made (Stegemeier) and seconded (Decker) minutes from November 6, 2007 were approved with the following two corrections.

6. **REPORT FROM EXECUTIVE DIRECTOR**

A. **Summary of Activities Report**

- **Mid-Atlantic Medication Committee** (*last paragraph*)
Mr. Wayne noted that Mr. Alan Foreman, legal counsel for the DTHA and other horsemen's associations (Maryland, Virginia, New Jersey, New York) was present at the meeting along with the two HBPA affiliated delegates from eastern and western Pennsylvania.

7. **REPORT FROM SUPERVISING COMMISSION VETERINARIAN**

A. **2007 Breakdown/Injury Statistics**

Commission Veterinarian, Dr. Kathleen Picciano, presented final 2007 Breakdown/Injury Statistics.

- Felt the track was very safe and in great shape. Commissioner Patterson noted that at the October 23, 2007 commission meeting Ms. Gale Patti, a local owner/trainer, made a statement to the commission that she realized a rise in injuries and asked Dr. Picciano to what she would attribute the discrepancy. Dr. Picciano stated it's different than nearby tracks and that she advises trainers to make adjustments. Dr. Picciano asked that private veterinarians turn-in anonymous injury reports – this year only one came in.

3. **HEARING ON APPEAL**

A. **Mr. Timothy Hooper (ADT 5-104)**

At 10:10 AM the hearing was opened and testimony recorded by Wilcox & Fetzner. At 10:19 AM the hearing was closed and the matter continued to February 13, 2008.

4. **OLD BUSINESS**

No old business was reported.

5. **NEW BUSINESS**

A. **Delaware Park – Annual Structural Safety Inspection**

Upon a motion duly made (Killeen) and seconded (Patterson) the facility structural inspection report, dated November 30, 2007, from MacIntosh Engineering Company, was approved.

B. **Delaware Park – 2008 Capital Budget**

Chairman Daney confirmed with Ms. Gruwell that the DTHA had received copies of the capital budget. Ms. Gruwell stated the DTHA had no objections and that the DTHA was meeting with Delaware Park management tomorrow, January 16, 2008.

Upon a motion duly made and seconded the 2008 Capital Budget is approved.

C. **2008 License for Delaware Park**

Approved during the October 23, 2007 commission meeting, the official license was submitted and commissioners' signatures were recorded.

D. **Ban on Anabolic and Androgenic Steroids**

Executive Director, John F. Wayne, read into the record press releases issued by the Racing Medication and Testing Consortium (RMTC) on November 30, 2007, and the Delaware Thoroughbred Racing Commission on December 14, 2007.

Also, Mr. Wayne read into the record a memorandum sent from Mr. Frank Zanzuccki to the RMTC, and an excerpt from the Maryland Jockey Club's overnight stating that Anabolic Steroid testing would begin in April, 2008 at the start of the Pimlico racing season.

5. **NEW BUSINESS - continued**

D. **Ban on Anabolic and Androgenic Steroids**

Commission Counsel, Tom Ellis, read into the record proposed rule language submitted for publication to the February 2008 Register of Regulations:

The Delaware Thoroughbred Racing Commission in accordance with 3 Del.C. §10103(c) has proposed changes to its rules and regulations. The proposal amends Section 15 of the rules and regulations to address use of Androgenic-Anabolic Steroids by thoroughbred horses by amending existing Rule 15.1.3.1.3 and adding new Rule 15.1.17.

A public hearing will be held on March 11, 2008 at 10:00 a.m. in the second floor conference room of the Horsemen's Office at Delaware Park, 777 Delaware Park Boulevard, Wilmington, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed regulations may obtain a copy from the Delaware Thoroughbred Racing Commission, 777 Delaware Park Boulevard, Wilmington, Delaware. Copies are also published online at the Register of Regulations website: http://regulations.delaware.gov/services/current_issue.shtml. Persons wishing to submit written comments may forward these to the Commission at the above address. The final date to receive written comments will be at the public hearing.

The Board will consider promulgating the proposed regulation at its regularly scheduled meeting following the public hearing.

1001 Thoroughbred Racing Rules and Regulations
(Break in Continuity of Sections)

15.0 Medication; Testing Procedures

15.1.3.1.3 A foreign substance of accepted therapeutic value may be administered as prescribed by a Veterinarian when test levels and guidelines for its use have been established by the Veterinary-Chemist Advisory Committee of the National Association of State Racing Commissioners and approved by the Commission. Aminocaproic acid may be present in a horse's body while it is participating in a race, subject to all the provisions of these Rules. Androgenic-Anabolic Steroids are subject to the provisions of Rule 15.17.

15.17 Androgenic-Anabolic Steroids

15.17.1 No Androgenic-Anabolic Steroids shall be permitted in test samples collected from racing horses except for residues of the major metabolite of stanozolol, nandrolone, and the naturally occurring substances, boldenone and testosterone, at concentrations less than the indicated thresholds:

15.17.1.1 Concentrations of these Androgenic - Anabolic Steroids shall not exceed the following urine threshold concentrations for total (i.e., free drug or metabolite and drug or metabolite liberated from its conjugates):

15.17.1.1.1 16-Hydroxystanozolol (metabolite of stanozolol (Winstrol®)) – 1ng/ml in urine for all horses regardless of sex.

15.17.1.1.2 Boldenone (Equipoise® is the undecylenate ester of boldenone) in male horses other than geldings - 15 ng/ml in urine. No boldenone shall be permitted in geldings or female horses.

15.17.1.1.3 Nandrolone (Durabolin® is the phenylpropionate ester and Deca-Durabolin® is the decanoate ester)

15.17.1.1.3.1 In geldings – 1 ng/ml in urine.

15.17.1.1.3.2 In fillies and mares – 1 ng/ml in urine.

15.17.1.1.4 Testosterone

15.17.1.1.4.1 In geldings – 20 ng/ml in urine.

15.17.1.1.4.2 In fillies and mares – 55 ng/ml in urine.

15.17.2 All other Androgenic - Anabolic Steroids are prohibited in racing horses.

15.17.3 Post-race samples collected from intact males shall be identified to the laboratory.

15.17.4 Any horse to which one of these Androgenic - Anabolic Steroids has been administered in order to assist in the recovery from an illness or injury may be placed on the veterinarian's list in order to monitor the concentration of the drug or metabolite in urine. After the concentration has fallen below the designated threshold for the administered Androgenic - Anabolic Steroids, the horse is eligible to be removed from the list.

5. **NEW BUSINESS - continued**

D. **Ban on Anabolic and Androgenic Steroids**

The following comments were recorded verbatim as there was an abundance of cross discussion which is difficult to summarize without fear of changing the meaning thereof.

Dr. Soma: 1 dose equipoise will clear in 120 days some 50 days. Given in the muscle absorbed very slowly over time. I don't know how long it takes to fully clear – **we're using plasma not urine.** We've done 130-140 samples from non-racing stallions – came into clinic over many years stallions that have not seen anabolic steroids we have the level of testosterone and Nandrolone that has not been racing if a stallion @ 2000 pica grams likely that trainer gave the horse testosterone. If the horse measures any level of Nandrolone then likely the trainer gave Nandrolone. We have pregnant mares if pregnant with a male horse may test high for testosterone.

Duncan Patterson: did you find stacking affects testing ?

Dr. Soma: didn't stack – used 7 horses
Florida going to plasma
California will use plasma
Movement to check yearlings – using plasma

Joe Strug: recommend screening in plasma – confirm the presence of AAS in urine – RMTC has established levels in urine. (consistent with England, Australia, and Hong Kong and officially, Plasma levels have not yet been published to date).
What we submitted last year to HFL the values returned would have rung these bells because they were much higher than these limits.

Dr. Soma: very difficult to sample urine – get a lot of hits – ELISA test. Cross-reacts with estrogen
We can adopt that methodology – nothing Joe Strug objects to

Joe Strug: not sure where they got the limits

Dr. Soma: suggests removing urine language

Urine confirmation testing – a proof

Soma: If you find it in plasma you more easily find it in urine

Bernard Daney to Soma: if Pennsylvania uses different methods will we have a problem?

Soma answer: you may the first month

Joe Strug – we'd be careful to have chemists on the same page

Bernard Daney: okay, we'd be careful the first month to not say, "got you" – we'd be careful

Bernard Daney & Dr. Soma: maybe a year from now we will be more strict.

Bernard Daney called for a motion: moved Patterson seconded Killeen

Edward Stegemeier – I cannot vote in favor – as much as we want to put these rules into effect we don't really know what we're doing

Bessie Gruwell: our biggest concern we want to be sure we're not on an island – some of the jurisdictions aren't enacting until late 2008 –

Duncan Patterson – what jurisdictions

Bessie Gruwell: NY, Maryland, meeting on the 29th to discuss, PA going to delay –
Duncan Patterson: Mr. Abbott – rumors untrue about Ben Nolt being fired and Abbott told Patterson Pennsylvania is going forward with the ban.

Bessie Gruwell: we don't have a problem with the thresholds that you're submitting

Steve Klesaris: going to add to the existing horse shortage that we already have.
How will you deal with claiming 120 for horses – stacking shouldn't be allowed?

Dr. Soma: clarify 120 days – we we're asked for horses starting in April Soma told them 120 days – they don't know 45-50 days without stacking – didn't check stacking – not metabolism - it's the absorption

George Margetson: if you're at Hot Springs (Oaklawn Park, Arkansas) or in Florida in April you claim 10 horses the last day of the meet - what are you going to do ?

Steve Klesaris: Should be a national thing
I have horses that come to me nationally am I to tell an owner that they shouldn't go to Delaware –

Henry Decker: if the mid Atlantic region goes with this ban than we go to with the ban

Steve Klesaris: shouldn't you consider this until finalized – can't we have national meetings?

Henry Decker: some horses are always going to come out of other jurisdictions that don't have it

Steve Klesaris: you're risking horse shortage – lets postpone until all jurisdictions in the Mid Atlantic
I don't think we're ready for

Madeline Locke: we don't know what the stacking does – we have 2 or 3 months until racing starts can't we use this time to test for stacking ?

George Margetson: who would pay for that?

Joe Strug: The costs involved for plasma screening is \$35.00 per sample. The confirmation test in urine is \$500.00 per test.

Dr. Soma: 5000 pica grams to clear we have no idea – highest we had was 2000 pica grams cleared in 35 days

Mark Schuman: Trainer – lots of uncertainty people will confuse baseball & horseracing. Owners have spent millions of dollars on yearlings – too long term – must start with the sales

Joe Strug: they are going to start testing in sales

Bernard Daney : I think speaking for this commission we'd be very careful

Gary Katz: is there going to be a difference? – will this rule give an intact horse a major advantage?

Dr. Soma: you're going to have a horse with test. When we surveyed pa tracks we identified the males – when we found test. We went back and identified the males – lots were on anabolic steroids – level on the racing males was ½ the concentration of the normal males.

Steve Klesaris: well that's unfair

5. NEW BUSINESS - continued

D. Ban on Anabolic and Androgenic Steroids

Gary Katz: I always thought that was the theory
Dr. Soma – that hasn't been confirmed – it's a myth

Gary Katz – the idea is to help stimulate appetite ?

Soma be sure the horse doesn't have any ulcers – there lots of ulcers on the backside

Bessie Gruwell: the trains left the station on this we know that – once you approve this in the March meeting are we going to make sure the rest of the Mid Atlantic jurisdictions are on board?

Bernard Daney: yes

Bessie Gruwell: does that include NY?

Duncan Patterson: we don't know

Henry Decker: we're not going to put Delaware Park racing in jeopardy

Bessie Gruwell: what day will that become effective?

Bernard Daney: we don't intent to sit hear to penalize

Bessie Gruwell: a warning period

Bernard Daney: The warning went out in December

Edward Stegemeier – The Mid Atlantic region is the most competitive – trying to move ahead prohibiting use of steroids – if Delaware "waits" to see what NY does may cause ripple effect – eventually these steroids have to be abolished – move now or forever delayed – shouldn't be a surprise

Bessie Gruwell: we're not standing up against it – we just want to be sure were not making Delaware an island

Edward Stegemeier – whose on the island – everyone else or NY?

Bessie Gruwell: Delaware is quicker to pass than NJ & Maryland

SOMA – isn't TOBA horses in graded stakes shall not be on steroids doesn't that put the Triple Crown in jeopardy.

John Wayne: The TOBA graded stakes committee only recommends prohibited use of Steroids in jurisdictions where the rules are already in place. Therefore the Triple crown races and any other future graded stakes are not in jeopardy of losing their graded status.

Henry Decker – going back to urine vs. plasma ruling
Screening of the plasma confirmation from the urine

Joe Strug – correct, but going forward cautiously
Confirmation \$500
Plasma \$35 quantity
Plasma couple hundred dollars individually

Member of Gallery not identified: Offer to split the cost of claimed horse?

5. NEW BUSINESS – continued

D. Ban on Anabolic and Androgenic Steroids

Tracy Nunley: how are we going to back the horses off steroids coming in from Louisiana how do we keep them from crashing at Delaware – claiming issues?

Bernard Daney – we'd take claiming into consideration
Steve Klesaris : why can't we take 5 random horses today?

Joe Strug – we wouldn't know what dosage they were given
Steve Klesaris – what if you did know?

Jack Ireland: ban is real. Commission is fully aware – is the commission aware Mr. Fasy of the horse shortage – even though it's a big deal what's the rush?

Edward Stegemeier: Delaware is no different than other U. S. tracks – compared with Chili
Madeline Locke: could we offer testing to some Delaware horses – I have two horses in Florida

Duncan Patterson: to Bessie maybe that is a good idea to...

Henry Decker: we've been testing steroids in horses for a long time at Delaware Park using HFL as the testing laboratory

William Fasy: must stand together – it's long term but we'll have less horses in the long term if we don't do it – its no secret that steroids in thoroughbreds is – strong hold – as long as the commission is moving forward with other commissions is the right thing – I don't know how you're going to convince the public that the horse hasn't been given steroids and has been fully weaned – the commissions moving together are doing the right thing

Charles Lockhart: there isn't going to be consistency in the Mid Atlantic region – urine has a lot of junk in it

Dr. Soma: I don't know how you can regulate in urine – especially horses with Salix

Joe Strug: very surprised that Alan Forman pushed for urine from RMTC
No anabolic no androgenic steroids found in intact males
Testosterone and Nandrolone – need levels (Plasma)
0 tolerance for anything else
Have john prepare alternate language?

Henry Decker: suggested Executive Director prepare optional language that deletes the word urine from the proposed regulations for consideration at the next meeting

John Wayne: Language in the proposed rule is verbatim text presented and recommended by the Racing Medication and Testing Consortium. The urine levels noted in the text are industry standards despite comments at today meeting. The urine confirmation numbers have been used in Great Britain, Hong Kong, and Australia for many years. They were used during our special testing done with HFL that indicated "stacking" of anabolic steroids. There are no "plasma" levels at this time. What Pennsylvania is doing is establishing their own plasma levels based on their independent research at the Pa Equine Toxicology Laboratory at West Chester, Pa. The Pennsylvania laboratory has access to several Triple Quadrupole LCMS instruments at their lab. These instruments are in excess of \$550,000.00 each respectively. Dalare, the Delaware contract lab does not have such equipment. So in order for Dalare to do testing for anabolic and androgenic steroids, we were being creative by screening the plasma for the presence of prohibited substances, however not calling a positive until the presence of the substance was found and confirmed in the urine. This process would sustain legal challenge. When the proposed

5. NEW BUSINESS – continued

5. **NEW BUSINESS – continued**

D. **Ban on Anabolic and Androgenic Steroids**

language was presented for final draft, it contained plasma numbers that were received from Dr. Soma. However, following Mid Atlantic meetings and conference calls with the RMTC Executive Director, Dr. Scott Waterman and other regulators, the question over the plasma levels came up since they had not been officially published and gone through peer review. With that information, a decision to remove the plasma levels was made and the proposed language only contained the urine levels which was 100% consistent with the RMTC language.

Debbie Killen moved Patterson second

12:00 – Bernard Daney concluded the AAS ban discussion

6. **REPORT FROM EXECUTIVE DIRECTOR**

A. **Summary of Activity Report**

Executive Director, Mr. John F. Wayne, submitted the Summary of Activities report for the period covering November 1, 2007 through December 31, 2007.

7. **REPORT FROM SUPERVISING COMMISSION VETERINARIAN**

A. **Office Space – Practicing Veterinarians**

Mr. Greg Petkiewicz, senior vice president of racetrack operations, submitted his report on wear & tear yesterday, January 14, 2008, to general manager, Mr. Andrew Gentile.

B. **2007 Racing Regulatory Veterinarians' Workshop – November 30, 2007**

Commission Veterinarian, Dr. Kathleen Picciano, attended the 2007 Racing Regulatory Veterinarian's Workshop, sponsored by the American Association of Equine Practitioners (AAEP) on November 30, 2007, and filed the attached report with the commission. **(ATTACHMENT A)**

InCompass System: Approximately \$40/live-race day, Dr. Picciano recommends the system for DTRC Veterinarian's office. Commissioner Decker agreed and asked Executive Director to move forward with request.

C. **Dr. John T. Peters**

Chairman Daney recognized Mr. Jack Ireland, a reporter for The News Journal. Mr. Ireland attended the Delaware Standardbred Owners Association (DSOA) awards dinner last night, January 14, 2007, and is pleased to inform the commission that Supervising Commission Veterinarian, Dr. John T. Peters, was recognized for outstanding service.

8. REPORT FROM DELAWARE THOROUGHBRED HORSEMEN'S ASSOCIATION

A. H2B VISA PROGRAM

325 applicants aren't going to be able to come back to work on the backside. Mr. Michael Glah, representative for the DTHA, stated a very significant and powerful anti-immigrant lobbying group is asserting influence over the program – returning worker provision is the one that is being disallowed. Ms. Gruwell met with Senator Biden and reached out to those she could, including Senator Carper and Representative Castle – co-sponsors to the bill allowing workers to return. Mr. Glah is trying to get this bill attached to the Economic Stimulus package and urges the horseracing industry to get involved.

B. MS. MADELINE LOCKE

3 major stakeholders seem to be working independent from one another, Delaware Park management, the DTRC, and the DTHA. Ms. Locke recommends a planning/strategy forum.

9. EXECUTIVE SESSION

At 12:30 PM, upon a motion duly made and seconded the commission was adjourned to executive session to discuss matters relating to personnel.

At 1:06 PM the commission was returned to public session.

10. ADJOURN

Upon a motion duly made (Decker) and seconded (Killeen) the meeting was adjourned at 1:06 PM.